

# Wetlands Bureau Decision Report

Decisions Taken  
01/05/2009 to 01/11/2009

## **DISCLAIMER:**

This document is published for information purposes only and does not constitute an authorization to conduct work. Work in jurisdiction may not commence until the applicant has received a posting permit.

Decisions are subject to appeal, and are reviewed by the federal agencies for compliance with Section 404 of the Federal Clean Water Act.

## **APPEAL:**

I. Any affected party may ask for reconsideration of a permit decision in accordance with RSA 482-A:10,II within 30 days of the Department's issuance of a decision. Requests for reconsideration should:

- 1) describe in detail each ground for complaint. Only grounds set forth in the request for reconsideration can be considered at subsequent levels of appeal;
- 2) provide new evidence or information to support the requested action;
- 3) Parties other than the applicant, the town, or contiguous abutters must explain why they believe they are affected; and
- 4) Be mailed to the DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095.

II. An appeal of a decision of the department after reconsideration may be filed with the Wetlands Council in accordance with RSA 482-A:10, IV within 30 days of the department's decision. Filing of the appeal must:

- 1) be made by certified mail to Lawrence E. Morse, Chairperson, Wetlands Council, PO Box 95, Concord, NH 03302-0095 (a copy should also be sent to the DES Wetlands Bureau);
- 2) contain a detailed description of the land involved in the department's decision; and
- 3) set forth every ground upon which it is claimed that the department's decision is unlawful or unreasonable.

## MAJOR IMPACT PROJECT

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**2006-01866                      PRICE SR, DAVID & ESTHER**  
**HOPKINTON   Contoocook River**

### Requested Action:

Impact a total of 1015 square feet along 135 linear feet of riverbank of the Contoocook River, further described as follows: Retain 570 square feet of existing rip rap and plantings along 75 linear feet of frontage and rip rap and plant an additional 60 linear feet of riverbank in two locations for new impacts of 445 square feet.

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### APPROVE PERMIT:

Impact a total of 1015 square feet along 135 linear feet of riverbank of the Contoocook River, further described as follows: Retain 570 square feet of existing rip rap and plantings along 75 linear feet of frontage and rip rap and plant an additional 60 linear feet of riverbank in two locations for new impacts of 445 square feet.

### With Conditions:

1. All work shall be in accordance with plans by The Louis Berger Group dated May 2008 and revised through December 9, 2008, as received by the Department on December 9, 2008.
2. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the construction and plantings areas are constructed in accordance with the approved plans. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
3. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland after July 1, 2008.
4. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B.
5. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
6. The applicant shall notify in writing the DES Wetlands Bureau, the Conservation Commission of their intention to commence construction no less than five (5) business days prior to the commencement of construction.
7. Work shall be done during low flow.
8. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
9. No equipment shall enter the water.
10. All work shall be done from the top of the bank.
11. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
12. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
13. Work within the stream, inclusive of work associated with installation of a cofferdam, shall be done during periods of low flow., High flows can be caused by seasonal runoff or precipitation; the permittee shall monitor local forecasts to review weather conditions.
14. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
15. Temporary cofferdams shall be entirely removed immediately following construction.
16. Work shall be conducted in a manner so as to minimize turbidity and sedimentation.
17. The applicant shall notify DES Wetlands Bureau in writing within twenty-four (24) hours of an erosion event resulting in sediment entering a wetland or surface water.
18. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.

19. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
20. The project area shall be properly constructed, monitored, and managed in accordance with approved plans.
21. Wetland bank areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning bank areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species.
22. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
23. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.
24. A post-construction report documenting the status of the completed project with photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(i); Projects that alter the course of or disturb 200 or more linear feet of an intermittent or perennial nontidal stream or river channel or its banks. For intermittent streams, the distance shall be measured along the thread of the channel.
2. The stream bank is failing and the existing structure is in jeopardy.
3. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
4. The applicant received an Emergency Authorization dated July 27, 2006 to rip rap 50 linear feet of riverbank with no impacts to the river channel.
5. The applicant installed 75 linear feet of rip rap reaching approximately 5 feet out into the channel.
6. The applicant vegetated the upper bank above the existing rip rap.
7. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
8. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
9. The proposed rip rap does not reach any further into the channel than the existing retaining wall.
10. In accordance with RSA 482-A:8, DES finds that the requirements for a public hearing do not apply as the permitted project is not of substantial public interest, and will not have a significant impact on or adversely affect the values of the riverine resource, as identified under RSA 482-A:1.
11. Retaining the rip rap that reaches into the channel will not alter the natural flow characteristics of the river or segment or adversely affect the resources for which the river or segment is designated.

**2008-01817                      AKWA MARINA YACHT CLUB LLC**  
**LACONIA   Lake Winnepesaukee**

Requested Action:

Install five, 3 pile ice clusters and three, 5 pile ice clusters, retain 6 tie-off piles adjacent to "D" dock, retain 5 tie-off piles adjacent to "B" dock within a major docking facility providing 76 slips on Lake Winnepesaukee, Laconia.

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Conservation Commission/Staff Comments:

No comments from Con Com by 11/25/08

APPROVE PERMIT:

Install five, 3 pile ice clusters and three, 5 pile ice clusters, retain 6 tie-off piles adjacent to "D" dock, retain 5 tie-off piles adjacent to "B" dock within a major docking facility providing 76 slips on Lake Winnepesaukee, Laconia.

With Conditions:

1. All work shall be in accordance with plans by Kurt Mailloux, as received by DES on December 18, 2008.
2. This permit shall not be effective until it has been recorded with the Belknap County Registry of Deeds office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.

3. The Applicant shall submit a final as-built plan showing the locations and footprints of all structures on the frontage, stamped by a licensed surveyor, to DES but July 1, 2009. If for any reason the permitted work has not been completed by July 1, 2009, the Applicant may request an extension of the timeframe for the submittal of the as-built plan. Such request shall be in writing, shall explain the need for the extension, and shall include a specific date to which the deadline might be extended.
4. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement or revocation action if the DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.
5. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
6. No new piles shall be driven until all unpermitted piles identified on the photograph submitted on December 18, 2008 have been removed from the frontage.
7. This permit does not authorize any dredge for any purpose.
8. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland after July 1, 2008.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(d), construction or modification of major docking system defined by Env-Wt 101.53.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant has an average of 340 feet of shoreline frontage along Lake Winnepesaukee.
6. The proposed modifications will not add any slips to the existing docking facility.
7. The proposed ice clusters will reduce the impacts that would result if the structure were to be damaged by ice, therefore, Rule Env-Wt 402.21, Modification of Existing Structures, is waived.

-Send to Governor and Executive Council-

**MINOR IMPACT PROJECT**

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**2008-00874                      GILMANTON, TOWN OF**  
**GILMANTON   Unnamed Stream**

Requested Action:

Dredge and fill 88 square feet further described as follows: Permanently impact 72 square feet for removal of existing structure and installation of proposed 10 foot wide x 4.5 foot high x 25 foot long open bottom spanning structure and temporarily impact 16 square feet for construction access.

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APPROVE PERMIT:

Dredge and fill 88 square feet further described as follows: Permanently impact 72 square feet for removal of existing structure and installation of proposed 10 foot wide x 4.5 foot high x 25 foot long open bottom spanning structure and temporarily impact 16 square feet for construction access.

With Conditions:

1. All work shall be in accordance with plans by NHSC Inc dated January 2008 and revised through December 8, 2008, as received

by the Department on December 11, 2008.

2. The Department has determined that this project is in the vicinity of an impaired waterbody. Therefore stormwater runoff treatment for this project shall be designed and constructed so that the stormwater pollutant loads from the completed project are no greater than the stormwater pollutant loads that existed prior to the project for all pollutants causing impairment which are likely to be in stormwater discharged from the completed project.
3. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
4. This permit is contingent on review and approval, by the DES Wetlands Bureau, of final stream diversion/erosion control plans. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.
5. Work shall be done during low flow.
6. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
8. No equipment shall enter the water.
9. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
10. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
11. Work within the stream, inclusive of work associated with installation of a cofferdam, shall be done during periods of low flow., High flows can be caused by seasonal runoff or precipitation; the permittee shall monitor local forecasts to review weather conditions.
12. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
13. Temporary cofferdams shall be entirely removed immediately following construction.
14. Native material used to emulate a natural channel bottom within the previously existing culvert location. Materials used must be similar to the natural stream substrate and shall not include angular rip-rap.
15. Proper headwalls shall be constructed within seven days of culvert installation.
16. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
17. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
18. Silt fencing must be removed once the area is stabilized.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(1); Projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n). For intermittent streams, this distance shall be measured along the thread of the channel.
2. The existing culverts are in failure.
3. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
4. The proposal is to increase the hydrologic opening of the structure by 458%.
5. The proposal will provide a single open bottom structure where currently there are undersized closed bottom twin structures.
6. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
7. The proposal is sized with the up and downstream channel width as the channel at the location of the crossing has been compromised due to the undersized culverts at that location.
8. The stream channel upstream and downstream is approximately 8 feet in width.
9. The proposal is opening the hydrologic opening however there is a large wetland complex associated with the downstream stream and it should be able to attenuate the larger flows the culvert opening will allow.
10. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application

Evaluation, has been considered in the design of the project.

**2008-01164                      DUFFY, PAUL**  
**MOULTONBOROUGH   Lake Winnepesaukee**

**Requested Action:**

Remove existing crib supported nonconforming "L-shaped" docking structure and install a 6 ft x 50 ft piling supported docking structure on 97 ft of frontage in Moultonborough on Lake Winnepesaukee.

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**APPROVE PERMIT:**

Remove existing crib supported nonconforming "L-shaped" docking structure and install a 6 ft x 50 ft piling supported docking structure on 97 ft of frontage in Moultonborough on Lake Winnepesaukee.

**With Conditions:**

1. All work shall be in accordance with plans by Diversified Marine Construction as received by the Department on January 2, 2009.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
3. No portion of the docking facility shall extend more than 50 feet from the shoreline at full lake elevation.
4. Unnecessary removal of vegetation shall be prohibited.
5. This permit does not allow dredging of the lakebed for any purpose.
6. All crib material from existing dock must be removed and placed completely outside wetlands jurisdiction prior to new dock construction.
7. Pilings shall be spaced a minimum of 12 feet apart as measured center to center.
8. Repairs to these structures may be conducted, as necessary, throughout the duration of this permit provided that the permittee notifies the Wetlands Bureau and local Conservation Commission, in writing, of the proposed start and completion date prior to performing any repair.
9. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
10. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
11. Work authorized shall be carried out in a time and manner such that there will be no disturbance to migratory waterfowl breeding areas or fish spawning areas.
12. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland after July 1, 2008.

**With Findings:**

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(d) construction of a minor docking system.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposed project will reduce the square feet of construction surface area over public submerged lands and, therefore, meets the requirements of Rule Env-Wt 402.21, Modification of Existing Structures.

**2008-01265                      NORTON, CHRISTOPHER & SALLY**  
**CHESTERFIELD   Unnamed Wetland**

Requested Action:

Request reconsideration of the denial for after-the-fact approval request to retain 11,729 square feet of (includes 2,507 square feet of wetlands restoration) dredge and fill impacts to palustrine forested wetlands for construction of a driveway to a single family residence. Work in wetlands includes retaining 9,222 square feet of wetlands impacts and 3 associated 12 inch x 28 feet culverts and restore 2,507 square feet of wetlands along the east side of the driveway.

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DENY RECONSIDERATION:

Deny reconsideration of the denial for after-the-fact approval request to retain 11,729 square feet of (includes 2,507 square feet of wetlands restoration) dredge and fill impacts to palustrine forested wetlands for construction of a driveway to a single family residence. Work in wetlands includes retaining 9,222 square feet of wetlands impacts and 3 associated 12 inch x 28 feet culverts and restore 2,507 square feet of wetlands along the east side of the driveway.

With Findings:

A. Grounds for Reconsideration

The request for reconsideration asserts the following as the basis for the request:

1. The applicant contends DES failed to consider the minor impact to low-value forested wetland against potentially significant impacts to higher-value grassland habitat, farmland of state-wide importance, amphibian breeding habitat and an exemplary natural community; and
2. The applicant contends that DES failed to consider the financial cost associated with relocation of the access drive, which could cost up to \$100,000 to implement (the definition of practicable, per Env-Wt 101.69, means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes).

B. Standards and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint.
2. RSA 482-A:10, III provides that on reconsideration, DES will receive and consider any new and additional evidence presented, and make findings of fact and rulings of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside DES's decision to show that the decision is unlawful or unreasonable.
4. If DES is persuaded by a request for reconsideration of a permit denial was erroneous, the result is that the permit originally requested would be granted.

C. Findings of Fact

1. By letter dated October 3, 2008, DES denied the after-the-fact application to retain 11,729 square feet of wetland impact (including 2,507 square feet of wetland restoration) for the construction of a single family driveway. The Findings of Fact in the October 3, 2008 denial letter are incorporated herein as stated in full.
2. NH Admin. Rule Env-Wt 302.05 states that "Applications received after work is completed shall be subjected to the same review as any other application."
3. NH Admin. Rule Env-Wt 302.03(a) states that the applicant shall submit a statement describing the impact of the proposed project design and provide evidence which demonstrates that (1) Potential impacts have been avoided to the maximum extent practicable; and (2) Any unavoidable impacts have been minimized.
4. NH Admin. Rule Env-Wt 302.01(b) states that "For non-tidal wetlands, need shall be demonstrated by the applicant prior to department approval of any alteration of non-tidal wetlands."

5. A letter accompanying the after-the-fact application dated June 30, 2008, prepared by Connecticut Valley Environmental Services, Inc., as agent for the applicants, states that "We concede this proposal does not avoid and minimize wetland impacts to the maximum extent possible. However, we believe it is the only practicable alternative."

6. The Department's review concludes that impacts to wetlands could be avoided and minimized by relocating the driveway in areas of upland. That the upland area is now characterized as "farmland of statewide importance" is not persuasive enough to justify the unpermitted and unlawful destruction of wetlands.

**Findings in Support of Denial:**

7. The Department reaffirms all of the original Findings in Support of Denial.

8. The application and the reconsideration documentation fail to demonstrate that impacts to wetlands were not minimized.

9. Christopher and Sally Norton have not met their burden of proving that DES's decision was unlawful or unreasonable.

**2008-01724                      LANGLEY, STEPHEN  
GOFFSTOWN   Unnamed Wetland**

**Requested Action:**

Dredge and fill approximately 9,220 sq. ft of man-made, disturbed wetlands and associated intermittent drainages (includes 2,092 sq. ft. of undisturbed wetlands) for construction of an access road to a proposed cellular phone tower site and a future commercial development within 5 lots of a previously approved 6 lot subdivision. Work in wetlands consists of filling 2,518 sq. ft. of recently created man-made wetlands on an existing commercial lot for future development and impacting 6,702 sq. ft. of disturbed, man-made wetlands and associated intermittent drainages and undisturbed wetlands for installation of two wetlands crossings dredging and filling for the new access road and drainage swales.

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**APPROVE PERMIT:**

Dredge and fill approximately 9,220 sq. ft of man-made, disturbed wetlands and associated intermittent drainages (includes 2,092 sq. ft. of undisturbed wetlands) for construction of an access road to a proposed cellular phone tower site and a future commercial development within 5 lots of a previously approved 6 lot subdivision. Work in wetlands consists of filling 2,518 sq. ft. of recently created man-made wetlands on an existing commercial lot for future development and impacting 6,702 sq. ft. of disturbed, man-made wetlands and associated intermittent drainages and undisturbed wetlands for installation of two wetlands crossings (including embedded box culverts), dredging and filling for the new access road and drainage swales.

**With Conditions:**

1. All work shall be in accordance with plans by Bay State Design, Inc., revision dated November 19, 2008, as received by DES on December 8, 2008 and plan by Keach-Nordstrom Associates, Inc., title "Conceptual Grading Plan" dated August 2008, as received by DES on August 22, 2008.
2. This permit is contingent on approval by the DES Alteration of Terrain Program for the work associated with the cellular phone tower access road and construction area. Additionally, a permit shall be obtained from the DES Alteration of Terrain Program before any other land alteration or development is conducted within the remaining 5 subdivision lots.
3. There shall be no further alteration of wetlands or surface waters for lot development, driveways, culverts, or for septic setback.
4. The deed which accompanies the sales transaction for each of the 5 remaining lots in the subdivision shall contain conditions #2 and #3 of this approval.
5. This permit shall not be effective until it has been recorded with the Hillsborough County Registry of Deeds office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.
6. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or



other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.

7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. Proper headwalls shall be constructed within seven days of culvert installation.
9. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
10. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
11. Work shall be done during low flow.
12. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
13. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
14. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
15. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
16. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
17. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
18. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
19. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h) Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Env-Wt 303.04(f).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The previous owner of the 6-lot subdivision received a permit (File #2000-01561) from the DES Wetlands Bureau in 2001 for 5,021 sq. ft. of wetlands impact for development of the site. The project permit was conditioned with no further alteration of wetlands for lot development, driveways, and culverts or for other construction activities. After the permit was issued the site was subdivided with a different lot layout and only 4,267 sq. ft. of the approved wetlands impacts were conducted. The current owner purchased the remaining lots in 2006 and was unaware of the previous permit conditions. Additionally, a new wetland area had formed when material was over excavated by the previous owner on one of the approved commercial lots. In addition, a large area of wetlands/intermittent drainages have formed along the existing woods road and steep slopes of the site as a result of heavy stormwater runoff caused by the 2006 Mother's Day Storm event and has been further aggravated by vehicle traffic on the woods road.
6. The current owner had the wetlands on the site re-delineated by a New Hampshire Certified Wetland Scientist ("CWS"). The CWS identified the created wetland areas and additional wetlands on the site that did not exist and/or were not identified during the previous wetlands delineation.
7. Due to the history of the previous project and the changes that have occurred on the site the additional impacts are required to access lot 56-4 and for future development of lot 56-1.
8. The wetlands area proposed to be filled on lot 5, 56-1 is a low function and value wetland that was created when the site was cleared and a small area was over excavated.
9. The wetlands to be impacted for the access road to the proposed cellular phone tower consists of a majority of disturbed wetlands

and drainage channels that have been historically impacted by storm events and vehicular traffic.

10. Due to the existing steep slopes and impacts along the woods road the proposed impacts and road design appear to provide the most appropriate access to the lot.

11. The proposal will stabilize the existing erosion along the steep slope and woods road and the approved crossings include embedded box culverts to pass the main drainage flows through the access road.

12. The applicant has provided plans that depict access can be provided to lots 56-3 and 56-4 by the new access road without any further/future wetlands or surface water impacts and that access will be provided to lots 56, and 56-5 through lot 56-1 without any impacts to wetlands or surface waters.

13. The applicant has indicated that due to the steep terrain and restricted access the cell tower would likely be the only feasible development for lot 56-4.

14. DES received comments from the Piscataquog River Local Advisory Committee (PRLAC) regarding concerns of the conceptual plans for the commercial lot, recommending that DES request complete and final plans, recognize the Goffstown Greenway right-of-way, optimal drainage features and maintenance requirements, and concerns with the multiple culverts at each crossing.

15. Due to the past history of the site and the continued requirement for no future wetlands impacts DES suggested that the applicant account for all wetland impacts if they were to submit a new application. The conceptual plans for lots 56, 56-1 and 56-5 demonstrate that future development can be conducted without future wetland impacts and depicts the man-made wetland area that formed on lot 56-1 during the previous commercial development, which will need to be filled for future development of the lot. If the area had not been over excavated no permit would be required from the DES Wetlands Bureau to develop the lot. Additionally, lots 56 and 56-5 could potentially be developed without any impacts to wetlands or surface waters.

16. The permit is conditioned that any future land alteration on the remaining lots will require a permit from the DES Alteration of Terrain Program. The application needed for approval will include plans that depict any development, drainage, stormwater treatment and detention that will occur on the lots.

17. DES received complete plans for the access roadway and cell tower construction area.

18. The lots are existing commercial lots and no information was submitted to DES regarding the specific concerns or location of the Goffstown Greenway.

19. The permit is contingent on approval by the DES Alteration of Terrain Program which will address the design of the proposed roadway drainage system.

20. The applicant has revised the proposal removing the multiple culvert design and replacing them with single embedded box culverts within the main drainage channels.

21. The applicant provided DES with a copy of the Goffstown Conservation Commission field inspection report which suggests the plan should be approved and that they have no issues or concerns. DES was not informed of what plan was used during the site inspection; however, DES has not received any objection to the project from the Town.

22. DES received correspondence from the US Department of the Army Corps of Engineers (ACOE) stating that the project is ineligible for the NH Programmatic General Permit (PGP) due to question raised by the US Environmental Protection Agency (EPA). The applicant provided a response to the ACOE and EPA.

23. DES received correspondence from the EPA indicating that the project was eligible for the PGP.

24. DES has not received any further correspondence from the ACOE.

25. On August 22, 2008 the department received plans stamped by a New Hampshire Certified Wetland Scientist ("CWS") depicting the existing wetlands adjacent to and associated with the proposed access road and future commercial development. Plan by Bay State Design, Inc. identified as sheet "C-1" revision dated August 14, 2008 and plan by Keach-Nordstrom Associates, Inc., identified as "Conceptual Grading Plan" dated August 2008.

**2008-02308 MOODY POINT COMPANY, JUNE BERRY  
NEWMARKET Unnamed Wetland**

**Requested Action:**

Fill 2,562 sq. ft. of wetlands for lot development for construction of one of two dwellings on Lot 5-1. Request to Waive Administrative Rule Env-Wt 304.04, Setback to Property Lines.

\*\*\*\*\*

**DENY PERMIT:**

Fill 2,562 sq. ft. of wetlands for lot development for construction of one of two dwellings on Lot 5-1. Request to Waive Administrative Rule Env-Wt 304.04, Setback to Property Lines.

#### With Findings:

##### Standards for Review

1. This is a Minor Impact Project per NH Code of Administrative Rule Env-Wt 303.03(h): projects involving less than 20,000 square feet of alteration in the aggregate in non-tidal wetlands which exceed the criteria of Env-Wt 303.04(f). This proposal, in combination with application 2008-2309 by the same owner in the same development, and also under current consideration by DES, total 5,060 square feet of requested fill of wetlands for lot development.
2. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1 .
3. The need for the proposed impacts shall be demonstrated by the applicant prior to department approval of any alteration of non-tidal wetlands pursuant to Rule Env-Wt 302.01(b), and Env-Wt 302.04(a)(1) .
4. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Rule Env-Wt 302.03.
5. The applicant must demonstrate by plan and example that each factor listed in Rule Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
6. Pursuant to Rule Env-Wt 302.04(d), the department shall not grant a permit if the applicant fails to document that the proposed alternative is the one with the least adverse impact to areas and environments under the department's jurisdiction, or if the applicant proposes unnecessary destruction of wetlands.
7. Pursuant to Rule Env-Wt 302.04(e), unless a waiver is granted, the department shall not grant a permit if the project the requirements of Env-Wt 302.03 are not met or the applicant has failed to document consideration of the factors as required in Env-Wt 302.04(a).
8. Pursuant to RSA 482-A:11, II, no permit to dredge or fill shall be granted if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

##### Findings of Fact:

1. On July 26, 1983 the NH Wetlands Board ("the Board"), a predecessor of the DES Wetlands Bureau ("DES"), issued a permit, M-965, to Moody Point Company ("MPC"), to "fill 100 cubic yards for road construction in subdivision". This permit was approved according to plans entitled "Topographic Plan, Moody Point, Owner: Moody's Point Co., Newmarket, NH" by Frederick E. Drew, LLS, Associates, dated August 1982, which depicted the layout of 14 proposed lots and the proposed Cushing Road.
2. On July 23, 1985 the NH Wetlands Board issued a permit, M-1151, to MPC for construction of a "Dug fire pond with some wetland with natural swale toward marsh." This permit was approved according to plans entitled "Final - Topographic Plan, Moody Point, Owner: Moody's Point Co., Newmarket, NH" by Frederick E. Drew, LLS, Associates, dated August 1982, revised July 1983, and depicted an approximately 400' long by 200' wide fire pond to be constructed in wetlands and a stream, which drained directly into Great Bay.
3. The revised Drew plan dated July 1983 from file M-1151 depicted the same property as that for permit M-965 for the road construction; however the layout for Cushing Road was changed from that permitted under M-965. No authorization for change of the approved road location under permit M-965 was obtained from the Board.
4. The revised Drew plan dated July 1983 depicted 26 single or multi-unit dwellings and a community center, and a road layout for Cushing Road which included a secondary loop in the location of the current Osprey Lane. No units were proposed for the interior of Osprey Lane on this plan.
5. On May 19, 2008 DES issued Administrative Order No. 08-027 to MPC for violation of RSA 485-A:17 and Alteration of Terrain/Site Specific Permit WPC-1627 at the Moody Point Development following investigation of complaints regarding stormwater drainage issues at the property.
6. On October 20, 2008 DES received an application, file 2008-2308, from MPC to fill 2,562 square feet of wetlands at Moody Point Development located on Newmarket tax map R2, Lot 5-1-1, Block 36, known as Osprey Lane, to create buildable uplands for one of two multi-unit dwellings proposed on the lot. The other dwelling unit was proposed to be located in uplands present on the lot.
7. Submitted in support of the application was a history of the development of Moody Point as an "environmentally friendly" subdivision by the developer, including several copies of meeting notes and recommendations from the 1980's from various entities consulted, including UNH staff, a USDA Soil Conservation Service ("SCS") soil scientist and an SCS biologist, the Great Bay Estuarine Conservation Trust, NH Office of State Planning, and others. Recommendations in part specifically included:
  - a. Dr. Arthur Mathieson, Professor of Botany, UNH Jackson Estuarine Laboratory, in a letter dated 2/11/83, stated that "...housing sites should be located in the wooded and more elevated areas"..
  - b. A report from NH Office of State Planning staff, DES Wetlands staff, and SCS biologist Judy Tumosa, dated 8/2/83, recommended in its Measure #2 "relocation of the road out of wetlands and provide a 50' wetlands buffer".

c. A report to Evelyn Browne, President of the Great Bay Estuarine Conservation Trust, in letter dated 7/26/84, from Sarah James, Great Bay Trust, stating that "Houses should be located on upland areas of the property"

d. James Hayden, District Conservationist, USDA Soil Conservation Service, in a letter dated 7/12/84, states he understands that MPC agrees to construct the "house units in clusters on the upland portions of the property."

8. In a letter dated 11/14/2005 included with the current 2008-2308 application, the applicant states that the demonstrated need for the proposed wetlands impact is to achieve "financial success" by build-out of the remaining three lots of the Moody Point development, and that he won't feel that his environmentally conscientious development is a success unless he meets his financial goals.

9. Submitted as part of the application was a request for a Waiver, pursuant to Env-Wt 204.03(a)(5)a., requesting relief from the 20' abutter setback requirement pursuant to Env-Wt 304.04, Setback from Property Lines. The request did not identify hardship, other than to say that the applicant was trying to achieve financial success with the project. The request did not provide any documentation to demonstrate why the rule could not be complied with; did not identify the abutter from whom written permission would be needed; did not include any letters of attempt to obtain written permission from the affected abutter, or any letters of rejection.

10. Review of the plans submitted in support of the application find that the Cushing Road layout depicted as now built, corresponded to neither the original wetlands road layout approved under M-965, nor that depicted in the plan submitted in support of the fire pond under wetlands permit M-1151. No authorization for change of the approved road location under permit M-965 was obtained from the Board.

11. Review of the plans submitted in support of the application further found that the depicted as-built shape and size of the fire pond constructed in wetlands did not conform with, and exceeded, that approved under wetlands permit M-1151. No authorization for change of the approved pond under permit M-1151 was obtained from the Board or its successor DES.

12. On November 5, 2008, DES received a letter dated November 3, 2008, from abutters Richard and Kathryn Mills opposing the project for two reasons: 1) that adding housing units for increased profits to an existing high density community, which has an inadequate drainage system, is not adequate reason to fill wetlands; and 2) that the subject lot was part of a drainage system in an area that already floods, thus the [inadequate] drainage system should be fixed first.

13. On November 7, 2008, DES received a letter dated November 6, 2008 from resident Anna-Lisa Gotschlich requesting that DES deny the application on the basis that there has been inadequate planning for run-off water which remains in the area, resulting in flooding in basements and gardens.

14. On November 10, 2008, DES received a letter dated November 7, 2008 from resident Donald MacKinnon opposing the project, stating that granting additional permits would increase drainage issues, and that MPC should be required to comply with the Administrative Order already issued by DES to correct the drainage issues.

15. On November 12, 2008, DES received a letter dated October 31, 2008, from abutter and part owner of the application property, Samuel Fitzpatrick, opposing the application, stating that the property is always subject to flooding, that it provides slowing and filtering of stormwater, and that to site a structure on filled wetlands will cause overflow onto neighboring properties.

16. On November 13, 2008, DES received a letter dated November 6, 2008, from part-owner of the application property, Jonathan Sack, opposing the project, stating that the drainage system for Moody Point is unfinished to this day, yet units continue to be built and sold, with on-going water damage issues for buyers.

17. On November 14, 2008, DES received an undated letter from resident Miriam Sokol opposing the project, stating that the lot is frequently flooded, further construction would cause loss of filtration, and cause flooding damage to neighboring homes, and further requested that the existing drainage problems be corrected.

18. On November 17, 2008, DES received a letter dated November 12, 2008 from abutter Patricia Gardner, Esq., opposing the project, stating that there is currently pending an unresolved Administrative Order issued by DES to remediate drainage problems which needs to be satisfactorily resolved.

19. On November 19, 2008 DES received a letter from the Newmarket Conservation Commission dated November 16, 2008 stating that the Commission had no issues with the application and thus gave it a favorable recommendation.

20. On December 31, 2008 DES received materials from the Town of Newmarket which included a report from a 2003 site walk with Sue Hoey, USDA Natural Resource Conservation Service ("NRCS") conservationist. The report described Sue Hoey's concern at finding that a least three lots upon which she had identified as having wetlands present in 1999, now had the wetlands filled and houses built upon them. The lots were identified as 365/368 Cushing Road (units built in or too near wetlands); 236 Cushing Rd. (unit built in wetlands); and 117 Cushing Rd. (unit built in wetlands). No permits were issued by DES for fill in these wetlands.

21. The 2003 report further stated that Sue Hoey observed that the "fire pond", which drains directly into Great Bay, was being used as the only detention basin for the development, and was at the limit of its capacity.

22. On December 31, 2008, DES received materials from the Town of Newmarket that included a CD of photos taken in 2005 by the Moody Point Community Association documenting the extent of the flooding on Osprey Lane and Cushing Road.

## Findings in Support of Denial

23. DES finds that the development now consists of 51 single or multi-family structures on 35 acres, nearly double the number presented in the 1985 development plan. 132 additional acres are designated as open space. Lot 5 is 3 acres in size, and is divided into 12 approximately 0.25- acre "Unit" segments. Of the 12 Unit segments, 8 have had single or multi-family structures built upon them. Of the two remaining unit segments, Unit 1 is 97% upland, and has ample room to construct the two-family structure without impacting the 300 square feet of wetlands as proposed. Unit 2, however, consists of only 0.14 acre (6,098 sq. ft.) and is nearly 40% wetland.

24. The applicant's description of demonstrated need states that the impact is necessary because development of the "environmentally friendly" cluster development protecting Great Bay "...has come at huge cost to the applicant, however, and will require this final build-out of the few remaining lots to enable this precedent-setting development project, from an environmental protection standpoint, to be deemed a financial success.."

25. DES finds that the proposal fails to meet demonstrated need pursuant to Env-Wt 302.01(b), and Env-Wt 302.04(a)(1) based on the following:

- a. It is possible, and in fact, proposed, to build one multi-unit dwelling in the upland on Lot 5-1 without impacting wetlands;
- b. Conversion, and thus loss, of wetlands to create further buildable uplands for the purpose of maximization of financial gain for a subdivision once all uplands have been developed does not represent demonstrated need.

26. DES finds that the proposal fails to meet avoidance and minimization, and least impacting alternative, pursuant to Env-Wt 302.03(a), and Env-Wt 302.04(a)(2) respectively. Design alternatives exist that allow the lot to be developed with one multi-unit structure without impacting the wetland.

27. DES review finds that there have been unauthorized wetlands impacts associated with non-compliance with permits M-965 and M-1151; as well as potential wetlands violations identified by NRCS; and that the proposal fails to address the cumulative impact of all the wetlands impacts within the development as required by Env-Wt 302.04(a)(16).

28. DES finds that the applicant's assertion that the project is an environmentally friendly subdivision does not justify or create the presumption that wetlands permits will be issued to fill wetlands for house construction to fulfill the developer's financial goals.

29. DES finds that the applicant's proposal to fill wetlands to create buildable uplands for dwelling construction directly contradicts the "environmentally conscientious" development philosophy described, and contradicts the recommendations provided by the environmental professionals whom the developer consulted, who specifically requested that all units be built in the uplands.

30. DES finds that the request for a Waiver to rule Env-Wt 304.04, Setback to Property Lines fails to provide a reason why the written permission to work within the set back could not be obtained; fails to provide evidence to prove that the applicant made any effort to obtain the necessary permission(s) from abutters, or to substantiate that the request to waive the setback would not negatively affect abutters, as required by Env-Wt 204.04(1)(b), therefore DES shall not grant the Waiver.

31. DES finds that the applicant's request for a Waiver to rule Env-Wt 304.04 further fails to satisfy any of the conditions required by Env-Wt 204.04(a)(2), therefore DES shall not grant the Waiver.

32. DES finds that the applicant's response to Env-Wt 302.04(a)(11) of "No adverse impact to abutters" is contradicted by the written testimony and photographic evidence of flooding received from abutters and part-owners of the property, indicating that flooding damage of surrounding properties is an on-going unresolved issue, and would be perpetuated and exacerbated as a result of this proposal. Pursuant to RSA 482-A:11, II DES shall not grant a permit to dredge or fill if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

33. DES finds that there is a practicable alternative, that being to construct one structure on the property in the uplands, that would have less adverse impact on the area and environments under the department's jurisdiction, therefore, pursuant to Env-Wt 302.04(d)(1), DES shall not grant a permit.

34. DES finds that, as an alternative exists to develop this property without impact to wetlands, the proposal would cause unnecessary destruction of wetlands, therefore, pursuant to Env-Wt 302.04(d)(3), DES shall not grant a permit.

35. DES finds that the applicant has failed to document consideration of all the factors required in Env-Wt 302.04(a), therefore pursuant to Env-Wt 302.04(e)(2), DES shall not grant a permit.

36. Further investigation by DES into wetlands regulation non-compliance issues on the property or properties within the Moody Point Development will be pursued as separate compliance matters.

Fill 2,498 sq. ft. of wetlands for lot development for construction of one dwelling structure.

\*\*\*\*\*

DENY PERMIT:

Fill 2,498 sq. ft. of wetlands for lot development for construction of one dwelling structure

With Findings:

Standards for Review

1. This is a Minor Impact Project per NH Code of Administrative Rule Env-Wt 303.03(h): projects involving less than 20,000 square feet of alteration in the aggregate in non-tidal wetlands which exceed the criteria of Env-Wt 303.04(f). This proposal, in combination with application 2008-2308 by the same owner in the same development, and also under current consideration by DES, total 5,060 square feet of requested fill for lot development.
2. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1 .
3. The need for the proposed impacts shall be demonstrated by the applicant prior to department approval of any alteration of non-tidal wetlands pursuant to Rule Env-Wt 302.01(b), and Env-Wt 302.04(a)(1) .
4. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Rule Env-Wt 302.03.
5. The applicant must demonstrate by plan and example that each factor listed in Rule Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
6. Pursuant to Rule Env-Wt 302.04(d), the department shall not grant a permit if the project would cause or contribute to significant degradation of waters of the state, or if the applicant proposes unnecessary destruction of wetlands.
7. Pursuant to Rule Env-Wt 302.04(e), unless a waiver is granted, the department shall not grant a permit if the project the requirements of Env-Wt 302.03 are not met or the applicant has failed to document consideration of the factors as required in Env-Wt 302.04(a).
8. Pursuant to RSA 482-A:11, II, no permit to dredge or fill shall be granted if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

Findings of Fact:

1. On July 26, 1983 the NH Wetlands Board ("the Board"), a predecessor of the DES Wetlands Bureau ("DES"), issued a permit, M-965, to Moody Point Company ("MPC"), to "fill 100 cubic yards for road construction in subdivision". This permit was approved according to plans entitled "Topographic Plan, Moody Point, Owner: Moody's Point Co., Newmarket, NH" by Frederick E. Drew, LLS, Associates, dated August 1982, which depicted the layout of 14 proposed lots and the proposed Cushing Road.
2. On July 23, 1985 the NH Wetlands Board issued a permit, M-1151, to MPC for construction of a "Dug fire pond with some wetland with natural swale toward marsh." This permit was approved according to plans entitled "Final - Topographic Plan, Moody Point, Owner: Moody's Point Co., Newmarket, NH" by Frederick E. Drew, LLS, Associates, dated August 1982, revised July 1983, and depicted an approximately 400' long by 200' wide fire pond to be constructed in wetlands and a stream, which drained directly into Great Bay.
3. The revised Drew plan dated July 1983 from file M-1151 depicted the same property as that for permit M-965 for the road construction; however the layout for Cushing Road was changed from that permitted under M-965. No authorization for change of the approved road location under permit M-965 was obtained from the Board.
4. The revised Drew plan dated July 1983 depicted 26 single or multi-unit dwellings and a community center, and a road layout for Cushing Road which included a secondary loop in the location of the current Osprey Lane. No units were proposed for the interior of Osprey Lane on this plan.
5. On May 19, 2008 DES issued Administrative Order No. 08-027 to MPC for violation of RSA 485-A:17 and Alteration of Terrain/Site Specific Permit WPC-1627 at the Moody Point Development following investigation of complaints regarding stormwater drainage issues at the property.
6. On October 20, 2008 DES received an application, file 2008-2309, from MPC to fill 2,498 square feet of wetlands at Moody Point Development located on Newmarket tax map R2, 36-Lot 2-7, known as Cushing Road, to create buildable uplands for one multi-unit dwelling proposed on the property.
7. Comparison of the plan submitted with the application and the approved plan for permit M-965 finds that wetlands proposed to be filled are the headwaters for the wetlands and stream in which a fire pond was permitted to be constructed under M-1151.
8. Submitted in support of the application was a history of the development of Moody Point as an "environmentally friendly" subdivision by the developer, including several copies of meeting notes and recommendations from the 1980's from various entities

consulted, including UNH staff, a USDA Soil Conservation Service ("SCS") soil scientist and an SCS biologist, the Great Bay Estuarine Conservation Trust, NH Office of State Planning, and others. Recommendations in part specifically included:

- a. Dr. Arthur Mathieson, Professor of Botany, UNH Jackson Estuarine Laboratory, in a letter dated 2/11/83, stated that "...housing sites should be located in the wooded and more elevated areas"..
- b. A report from NH Office of State Planning staff, DES Wetlands staff, and SCS biologist Judy Tumosa, dated 8/2/83, recommended in its Measure #2 "relocation of the road out of wetlands and provide a 50' wetlands buffer".
- c. A report to Eveyln Browne, President of the Great Bay Estuarine Conservation Trust, in letter dated 7/26/84, from Sarah James, Great Bay Trust, stating that "Houses should be located on upland areas of the property"
- d. James Hayden, District Conservationist, USDA Soil Conservation Service, in a letter dated 7/12/84, states he understands that MPC agrees to construct the "house units in clusters on the upland portions of the property."

9. In a letter dated 11/14/2005 included with the current 2008-2309 application, the applicant states that the demonstrated need for the proposed wetlands impact is to achieve "financial success" by build-out of the remaining three lots of the Moody Point development, and that he won't feel that his environmentally conscientious development is a success unless he meets his financial goals.

10. Review of the plans submitted in support of the application find that the Cushing Road layout depicted as now built, corresponded to neither the original wetlands road layout approved under M-965, nor that depicted in the plan submitted in support of the fire pond under wetlands permit M-1151. No authorization for change of the approved road location under permit M-965 was obtained from the Board.

11. Review of the plans submitted in support of the application further found that the depicted as-built shape and size of the fire pond constructed in wetlands did not conform with, and exceeded, that approved under wetlands permit M-1151. No authorization for change of the approved pond under permit M-1151 was obtained from the Board or its successor DES.

12. On November 5, 2008, DES received a letter dated November 3, 2008, from Alan and Beth Marsh opposing the project, stating that there is a spring located in the center of the wetland on the property and that there are existing drainage problems which need to be addressed; and that additional fill of wetlands will cause overflow onto neighboring downhill properties.

13. On November 7, 2008, DES received a letter dated November 6, 2008 from resident Anna-Lisa Gotschlich requesting that DES deny the application on the basis that there has been inadequate planning for run-off water which remains in the area, resulting in flooding in basements and gardens.

14. On November 10, 2008, DES received a letter dated November 7, 2008 from resident Donald MacKinnon opposing the project, stating that granting additional permits would increase drainage issues, and that MPC should be required to comply with the Administrative Order already issued by DES to correct the drainage issues.

15. On November 12, 2008, DES received a letter dated October 31, 2008, Samuel Fitzpatrick, as an abutter and on behalf of the Moody Point Community Association, opposing the project, stating the following: a spring flowing year round is centered on the property; to fill and build over the spring "belies" the developer's claim of environmentalism; currently existing drainage problems relate to the siting of buildings over wetlands in the past on other lots; the existing drainage deficiencies need to be corrected first before accepting the reliability of any [drainage] calculations submitted; additional filling, re-contouring, and hard-surfacing will cause overflow onto neighboring properties.

16. On November 12, 2008, DES received an undated letter from abutters Robert and Marion Bestani opposing the project, stating that the applicant was in violation of permits issued 20 years ago resulting in major flooding; that the claim that the wetland on lot 7 is "man-made" is untrue as there is a natural spring on the property.

17. On November 12, 2008, DES received a letter dated November 8, 2008 from part-owner of the property Ruth Kane opposing the project, stating that the Moody Point community was originally planned at smaller density, but that the developer built more; that filling the wetland would be detrimental to Great Bay, and add to her and her neighbors flooding problems.

18. On November 12, 2008, DES received a letter dated November 8, 2008 from part-owner of the property Dr. Lawrence Kane opposing the project, stating that there is a recognized problem with the drainage, and that they had lost four trees as a result.

19. On November 14, 2008, DES received an undated letter from resident Miriam Sokol opposing the project, stating that the lot is frequently flooded, further construction would cause loss of filtration, and cause flooding damage to neighboring homes, and further requested that the existing drainage problems be corrected.

20. On November 19, 2008 DES received a letter from the Newmarket Conservation Commission dated November 16, 2008 stating that the Commission had no issues with the application and thus gave it a favorable recommendation.

21. On December 31, 2008 DES received materials from the Town of Newmarket which included a report from a 2003 site walk with Sue Hoey, USDA Natural Resource Conservation Service ("NRCS") conservationist. The report described Sue Hoey's concern at finding that a least three lots upon which she had identified wetlands present in 1999, now had the wetlands filled and houses built upon them. The lots were identified as 365/368 Cushing Road (units built in or too near wetlands); 236 Cushing Rd. (unit built in wetlands); and 117 Cushing Rd. (unit built in wetlands). No permits were issued by DES for fill in these wetlands.

22. The 2003 report further stated that Sue Hoey observed that the "fire pond", which drains directly into Great Bay, was being used as the only detention basin for the development, and was at the limit of its capacity.

23. On December 31, 2008, DES received materials from the Town of Newmarket that included a CD of photos taken in 2005 by the Moody Point Community Association documenting the extent of the flooding on Osprey Lane and Cushing Road.

#### Findings in Support of Denial

23. DES finds that the development now consists of 51 single or multi-family structures on 35 acres, nearly double the number presented in the 1985 development plan. 132 additional acres are designated as open space. Lot 2 is 3.15 acres in size, and is divided into 8 approximately 0.40-acre "Unit" segments. Of the 8 Unit segments, 6 have had single or multi-family structures built upon them. Of the one remaining Unit segment belonging to the applicant, Unit 7 is 0.45 acres and 13% wetland, which runs down the center of the parcel.

24. The applicant's description of demonstrated need states that the impact is necessary because development of the "environmentally friendly" cluster development protecting Great Bay "...has come at huge cost to the applicant, however, and will require this final build-out of the few remaining lots to enable this precedent-setting development project, from an environmental protection standpoint, to be deemed a financial success.."

25. DES finds that the proposal fails to meet demonstrated need pursuant to Env-Wt 302.01(b), and Env-Wt 302.04(a)(1) based on the following:

- a. Another developable lot is available in the immediate vicinity to build one multi-unit dwelling in the upland without impacting wetlands;
- b. Conversion, and thus loss, of wetlands to create further buildable uplands for the purpose of maximization of financial gain for a subdivision once all uplands have been developed does not represent demonstrated need.

26. DES finds that the proposal fails to meet avoidance and minimization, and least impacting alternative, pursuant to Env-Wt 302.03(a), and Env-Wt 302.04(a)(2) respectively. Design alternatives exist that allow another lot to be developed with one multi-unit structure within this development without impacting the wetland.

27. DES review finds that there have been unauthorized wetlands impacts associated with non-compliance with permits M-965 and M-1151; as well as potential wetlands violations identified by NRCS; and that the proposal fails to address the cumulative impact of all the wetlands impacts within the development as required by Env-Wt 302.04(a)(16).

28. DES finds that the applicant's assertion that the development has been created as an "environmentally friendly" subdivision, does not justify or create the presumption that wetlands permits will be issued to fill wetlands for house construction to fulfill the developer's financial goals.

29. DES finds that the applicant's proposal to fill wetlands to create buildable uplands for dwelling construction directly contradicts the "environmentally conscientious" development philosophy described, and further contradicts the recommendations provided by the environmental professionals whom the developer consulted, who specifically requested that all units be built in the uplands.

30. DES finds that the applicant's response to Env-Wt 302.04(a)(11) of "No adverse impact to abutters" is contradicted by the written testimony and photographic evidence received from abutters and part-owners of the property, indicating that flooding damage of surrounding properties is an on-going unresolved issue, and would be perpetuated and exacerbated as a result of this proposal. Pursuant to RSA 482-A:11, II DES shall not grant a permit to dredge or fill if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

31. DES finds that there is a practicable alternative, that being to construct one structure on another lot in the immediate vicinity in the uplands, that would have less adverse impact on the area and environments under the department's jurisdiction, therefore, pursuant to Env-Wt 302.04(d)(1), DES shall not grant a permit.

32. DES finds that the wetland on this lot is a headwater wetland connected to a larger wetland system that includes wetlands, a stream, and the fire pond. The fire pond was constructed in wetlands and a stream in non-compliance with its permit, and is being used as detention basin in which drains directly into Great Bay, and thus the system is already burdened. DES finds that the proposal to further impact this wetland system, would cause or contribute to significant degradation of waters of the State, as well as cause unnecessary destruction of wetlands, therefore, pursuant to Env-Wt 302.04(d)(3), DES shall not grant a permit.

33. DES finds that the applicant has failed to document consideration of all the factors required in Env-Wt 302.04(a), therefore pursuant to Env-Wt 302.04(e)(2), DES shall not grant a permit.

34. Further investigation by DES into wetlands regulation non-compliance issues on the property or properties within the Moody Point Development will be pursued as separate compliance matters.



## MINIMUM IMPACT PROJECT

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**2008-01721                      SALTMARSH, ROBERT**  
**HAMPTON    Atlantic Ocean**

### Requested Action:

Impact 1,154 square feet within the previously-developed 100-foot tidal buffer zone to demolish the existing dwelling and replaced with a two story, single family dwelling on approximately 0.33 acres with 51.83 feet of frontage on the Atlantic Ocean.

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### Conservation Commission/Staff Comments:

The Hampton Conservation Commission did not comment on the project.

### APPROVE PERMIT:

Impact 1,154 square feet within the previously-developed 100-foot tidal buffer zone to demolish the existing dwelling and replaced with a two story, single family dwelling on approximately 0.33 acres with 51.83 feet of frontage on the Atlantic Ocean.

### With Conditions:

1. All work shall be in accordance with plans by E.J. Cote & Associates, Inc. dated April 18, 2008, as received by DES on August 20, 2008.
2. DES Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.
3. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require approval by the Bureau.
4. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B and Shoreland Permit # 2008-01993.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
7. Any native dune vegetation impacted as a result of this project shall be replanted.

### With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(b) Projects in previously-developed upland areas within 100 feet of the highest observable tide line.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. A memo from the NH Natural Heritage Bureau (NHNHB) dated September 4, 2008 identified rare species in the vicinity of the proposed project.
6. DES finds that none of the species identified in the NHNHB memo will be adversely affected as this site is within the previously-developed tidal buffer zone.
7. Pursuant to Env-Wt 304.04, the applicant received written concurrence from the abutter identified as Ronald Craven (Hampton Tax Map 98 L0t 10) for those impacts within 20-feet of the boundary line.

**2008-01819                      GULLAGE, JOSEPH**  
**WASHINGTON    Unnamed Stream Wetland**

### Requested Action:

Retain approximately 180 square feet (21 linear feet) of intermittent stream and associated palustrine forested wetlands impact for an existing 12-inch x 21-foot culvert providing access to a single family residence and restore approximately 500 square feet of palustrine forested wetland impact, including approximately 5 linear feet of intermittent stream.

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#### APPROVE PERMIT:

Retain approximately 180 square feet (21 linear feet) of intermittent stream and associated palustrine forested wetlands impact for an existing 12-inch x 21-foot culvert providing access to a single family residence and restore approximately 500 square feet of palustrine forested wetland impact, including approximately 5 linear feet of intermittent stream.

#### With Conditions:

1. All work shall be in accordance with plans by J.E. Belanger Land Surveying, LLC dated July 28, 2008, as received by the Department on December 15, 2008.
2. This permit is contingent upon the restoration of approximately 500 square feet of wetlands and 5 linear feet of intermittent stream in accordance with plans by J.E. Belanger Land Surveying, LLC dated July 28, 2008, as received by the Department on September 08, 2008 and plans dated July 28, 2008, as received by the Department on December 15, 2008.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. Work shall be done during low flow conditions.
5. The schedule for construction of the restoration area shall occur prior to or coincide with site construction unless otherwise considered and authorized by the DES Wetlands Bureau.
6. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
7. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
8. Orange construction fencing shall be placed at the limits of construction within or directly adjacent to wetlands or surface waters to prevent accidental encroachment on wetlands.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Proper headwalls shall be constructed within seven days of culvert installation.
11. Culverts shall be laid at original grade.
12. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
13. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
14. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the restoration areas are constructed in accordance with the restoration plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The DES Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
15. All material removed during work activities shall be removed down to the level of the original hydric soils.
16. Wetland soils from areas vegetated with purple loosestrife (*Lythrum salicaria*) shall not be used in the wetland restoration site. The potential for the establishment of the invasive species should be considered in other areas where spoils may be spread to limit its further establishment.
17. The restoration area shall be regraded to original contours following completion of work.
18. Only native plant species appropriate to the area shall be planted.
19. Seed mix within the restoration area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers specifications and shall contain no reed canary grass (*Phalaris arundinacea*).
20. Mulch used within the wetland restoration areas shall be natural straw or equivalent.
21. The permittee shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures agreed upon by the DES Wetlands Bureau if the species is found in the mitigation areas during construction and during the early stages of vegetative establishment.
22. Wetland restoration area shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydrologic regime.

23. Wetland restoration areas shall have at least 75% successful establishment of wetlands vegetation after one (1) growing season, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
24. The recreated stream channel bed must maintain the natural and a consistent stream bed elevation.
25. Stream restoration shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create a healthy riverine system that is replicated in a manner satisfactory to the DES Wetlands Bureau. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing stream sinuosity, changing the slope of the stream, and changing the hydrologic regime.
26. A post-construction report documenting the status of the completed project with photographs shall be submitted to the DES Wetlands Bureau within sixty (60) days of the completion of construction.
27. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the restoration area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(z), installation of a culvert and associated fill to permit vehicular access to a piece of property for a single family building lot.
2. The lot was subdivided in 1984.
3. DES Shoreland Program approval was issued under Shoreland Impact Permit 2008-01835.
4. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
5. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
6. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**FORESTRY NOTIFICATION**

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**2008-02700 CHAILLE, GERALD**  
**TILTON Unnamed Stream**

**2008-02812 PATENAUE PROPERTIES**  
**HENNIKER Unnamed Stream**

COMPLETE NOTIFICATION:  
Henniker Tax Map 1, Lot# 102

**2009-00010 ZINN, ELIZABETH**  
**CHESTERFIELD Unnamed Stream**

COMPLETE NOTIFICATION:  
Chesterfield Tax Map 18, Lot# 1, 3 & 4

**2009-00011 DAVIDSON, GARY & LINDA**  
**FRANKLIN Unnamed Stream**

COMPLETE NOTIFICATION:

Franklin Tax Map 17, Lot# 1

**2009-00012                      DAVIDSON, GARY & LINDA**  
**ANDOVER   Unnamed Stream**

COMPLETE NOTIFICATION:  
Andover Tax Map 8, lot# 187,354

**2009-00014                      SPOOR, DAVID**  
**ALSTEAD   Unnamed Stream**

**2009-00015                      CLIFFORD, CAROL**  
**CANAAN   Unnamed Stream**

COMPLETE NOTIFICATION:  
Canaan Tax Map 6, Lot# 3A

**2009-00016                      MESSER TRUST, HAROLD**  
**NEWBURY   Unnamed Stream**

COMPLETE NOTIFICATION:  
Newbury Tax Map 27, Lot# 465,418

**2009-00017                      LOVATT, BRIAN & WENDY**  
**TAMWORTH   Unnamed Stream**

COMPLETE NOTIFICATION:  
Tamworth Tax Map 411, Lot# 30

**2009-00018                      MCELROY, GLENN & LAUREL**  
**CANAAN   Unnamed Stream**

COMPLETE NOTIFICATION:  
Canaan Tax Map 6N, Lot# 9

**2009-00026                      ROBY, PHYLLIS**  
**WEBSTER   Unnamed Stream**

COMPLETE NOTIFICATION:  
Webster Tax Map 7, Lot# 60

**2009-00027                      SHAW, FREDERICK & EDWINA**  
**SALISBURY   Unnamed Stream**

COMPLETE NOTIFICATION:  
Salisbury Tax Map 248, Lot# 24

**2009-00028**                      **COOS COUNTY, COUNTY ADMINISTRATOR**  
**STEWARTSTOWN**   **Unnamed Stream**

COMPLETE NOTIFICATION:  
Stewartstown Tax Map A5, Lot# 15

**2009-00029**                      **YADE, VICTORIA**  
**SWANZEY**   **Unnamed Stream**

COMPLETE NOTIFICATION:  
Swanzy Tax Map 81, Lot# 1

**2009-00030**                      **SPRAGUE BROOK INC, C/O FOUNTAINS FORESTRY**  
**RICHMOND**   **Unnamed Stream**

COMPLETE NOTIFICATION:  
Richomond Tax Map 411, lot# 44

**2009-00031**                      **HEMPTON, MARK**  
**WAKEFIELD**   **Unnamed Stream**

COMPLETE NOTIFICATION:  
Wakefield Tax Map 60, lot# 1

## EXPEDITED MINIMUM

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**2008-02587**                      **KENNEY, BARBARA**  
**HAMPTON**   **Unnamed Wetland Atlantic Ocean**

### Requested Action:

Impact 56 square feet within the 100-foot previously disturbed tidal buffer zone for the removal of the existing, rear porch and stairs and construct an addition within the existing impervious surface of the asphalt driveway to expand an interior hallway from 28-inches to 36-inches for building code compliance.

\*\*\*\*\*

### Conservation Commission/Staff Comments:

The Hampton Conservation Commission signed the Minimum Impact Expedited Application.

### APPROVE PERMIT:

Impact 56 square feet within the 100-foot previously disturbed tidal buffer zone for the removal of the existing, rear porch and stairs and construct an addition within the existing impervious surface of the asphalt driveway to expand an interior hallway from 28-inches to 36-inches for building code compliance.

With Conditions:

1. All work shall be in accordance with plans by E.J. Cote & Associates, Inc. dated September 24, 2008, as received by DES on December 1, 2008.
2. DES staff shall be notified in writing prior to commencement of work and upon its completion.
3. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
4. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B.
5. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(b), Projects in previously-developed upland areas within 100 feet of the highest observable tide line.
2. The applicant request to construct an addition to comply with the Town of Hampton Building Codes, therefore; the need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant voluntarily proposes to remove the rear deck and stairs in an effort to decrease the impervious surface onsite, therefore; the applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant is not require to obtain a permit under RSA 483-B in accordance with Env-Wq 1406.04(c)(3).
6. A memo dated October 16, 2008 from the NH Natural Heritage Bureau ("NHNHB") identified one (1) natural community, high salt marsh, and four (4) vertebrate species of concern, Common Tern (*Sterna hirundo*); Horned Lark (*Eremophila alpestris*); Piping Plover (*Charadrius melodus*); and, Seaside Sparrow (*Ammodramus maritimus*) within the vicinity of the project.
7. DES finds that this project will not adversely affect any of the aforementioned rare species or the exemplary natural community as this project occurs with the previously-developed 100-foot tidal buffer zone in a dense, residential area.

**2008-02675                      ALTON, TOWN OF**  
**ALTON   Alton Bay / Lake Winnepesaukee**

Requested Action:

Repair an existing 30 ft x 30 ft deck with a 20 ft 2 inch x 20 ft 2 inch gazebo in the center supported by two 10 ft x 28 ft crib on Lake Winnepesaukee, Alton.

\*\*\*\*\*

Conservation Commission/Staff Comments:

Con Com signed Exp Application

APPROVE PERMIT:

Repair an existing 30 ft x 30 ft deck with a 20 ft 2 inch x 20 ft 2 inch gazebo in the center supported by two 10 ft x 28 ft crib on Lake Winnepesaukee, Alton.

With Conditions:

1. All work shall be in accordance with plans by Winnepesaukee Marine Construction dated October 28, 2008, as received by DES on December 09, 2008.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds Office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau, by certified mail, return receipt requested, prior to construction.
3. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation action if the DES later determines that the structures represented as "existing" were not previously permitted or grandfathered.

4. The repairs shall maintain the size, location and configuration of the pre-existing structures.
5. All construction related debris shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
6. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
7. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
8. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.
9. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
10. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland after July 1, 2008.

With Findings:

1. This project is classified as a minimum impact project per Rule Env-Wt 303.04(v), repair of existing docking structures with no change in size, location or configuration.

**2008-02723                      STONE, LAUREN**  
**NORTH HAMPTON   Unnamed Pond**

Requested Action:

Maintenance dredge 1,340 square feet of accumulated sediment and vegetation within a man-made pond for continued usefulness.

\*\*\*\*\*

Conservation Commission/Staff Comments:

The North Hampton Conservation Commission signed the Minimum Impact Expedited Application.

APPROVE PERMIT:

Maintenance dredge 1,340 square feet of accumulated sediment and vegetation within a man-made pond for continued usefulness.

With Conditions:

1. All work shall be in accordance with plans by Groover Septic Design dated November 7, 2008, as received by DES on December 16, 2008.
2. DES staff shall be notified in writing prior to commencement of work and upon its completion.
3. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
4. Work shall be done during seasonal low flow conditions.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to dredging, shall be maintained during the project, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. No fill shall be done for lot development.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(k) Maintenance dredging, when necessary to provide continued usefulness of nontidal drainage ditches, man-made ponds, and spillways.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2009-00002                      MCCRILLIS, JOHN & KATHARNIE**  
**SUNAPEE   Lake Sunapee**

**Requested Action:**

Repair "in kind" an existing 22 ft 9 inch x 10 ft 6 inch boathouse with a 10 ft 5 inch x 13 ft 6 inch dock lakeward on 16 ft of frontage on Lake Sunapee, in Sunapee.

\*\*\*\*\*

**Conservation Commission/Staff Comments:**

Con Com signed Exp Application on 12/29/08

**APPROVE PERMIT:**

Repair "in kind" an existing 22 ft 9 inch x 10 ft 6 inch boathouse with a 10 ft 5 inch x 13 ft 6 inch dock lakeward on 16 ft of frontage on Lake Sunapee, in Sunapee.

**With Conditions:**

1. All work shall be in accordance with plans by Riverside Ecological Designs, LLC dated December 5, 2008, as received by DES on January 2, 2009.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds Office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau, by certified mail, return receipt requested, prior to construction.
3. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation action if the DES later determines that the structures represented as "existing" were not previously permitted or grandfathered.
4. Appropriate siltation and erosion controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
5. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. The repairs shall maintain the size, location and configuration of the pre-existing structures.
7. All construction related debris shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. This permit does not authorize any work on any structure other than the boathouse specifically identified in the description above.
9. This permit does not allow for any dredge of the lake bed or any excavation of the bank.
10. The boathouse shall be used solely for the storage of watercraft and boating-related accessories.
11. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
12. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.
13. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
14. All activities shall be in accordance with the Comprehensive Shoreland Protection Act, per RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland after July 1, 2008.

**With Findings:**

1. This project is classified as a minimum impact project per Rule Env-Wt 303.04(v), repair of existing docking structures with no change in size, location or configuration.

**LAKES-SEASONAL DOCK NOTIF**

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**2009-00008                      PRATT, JOHN**  
**MOULTONBOROUGH   Squam Lake**

COMPLETE NOTIFICATION:

Moultonborough, NH Tax Map 29 Lot 4  
Squam Lake

PERMIT BY NOTIFICATION

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**2008-02750                      PSNH**  
**AMHERST   Unnamed Wetland**

Requested Action:

Temporarily impact 3,648 square feet of palustrine scrub/shrub and wet meadow for mat placement to access and replace a deteriorating utility pole within the W-157 transmission line right of way.

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Conservation Commission/Staff Comments:

The Amherst Conservation Commission did not sign the PBN.

PBN IS COMPLETE:

Temporarily impact 3,648 square feet of palustrine scrub/shrub and wet meadow for mat placement to access and replace a deteriorating utility pole within the W-157 transmission line right of way.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(af) Temporary impacts associated with the inspection, maintenance, and repair of existing utility lines within an existing utility right of way.

**2008-02823                      OLIVER, DOROTHY**  
**DURHAM   Little Bay**

Requested Action:

Repair in the dry, and reface to no more than 6" of additional width, an existing retaining wall at the shoreline limit of the developed upland tidal buffer zone.

\*\*\*\*\*

Conservation Commission/Staff Comments:

Durham Conservation Commission signed application.

PBN IS COMPLETE:

Repair in the dry, and reface to no more than 6" of additional width, an existing retaining wall at the shoreline limit of the developed upland tidal buffer zone.

**CSPA PERMIT**

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**2008-02414                      LACOURCIERE, LORI**  
**STODDARD   Island Pond**

**Requested Action:**

Impact 1,222 sq ft for the purposes of constructing new garage, shed, and installing new septic system.

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**APPROVE PERMIT:**

Impact 1,222 sq ft for the purposes of constructing new garage, shed, and installing new septic system.

**With Conditions:**

1. All work shall be in accordance with plans by Monadnock Septic Design LLC, dated August 8, 2008 and received by the Department of Environmental Services ("DES") on November 5, 2008.
2. No more than 19.41% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
3. The project as proposed will leave approximately 6,572.7 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 1,908 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
4. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
8. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
9. Silt fencing must be removed once the area is stabilized.

**2008-02417                      AIKENS, PETER**  
**NORTHWOOD   Jenness Pond**

**Requested Action:**

Impact 8,420 sq ft to construct a new house with an attached garage and driveway.

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**APPROVE PERMIT:**

Impact 8,420 sq ft to construct a new house with an attached garage and driveway.

**With Conditions:**

1. All work shall be in accordance with revised building plans by MSC Civil Engineers & Land Surveyors, Inc. dated December 16, 2008 and received by the Department of Environmental Services ("DES") on December 31, 2008.
2. No more than 11% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
3. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.

4. The project as proposed shall leave at least 3,316 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 3,316 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
5. This document does not permit impacts to jurisdictional wetlands.
6. This permit is contingent on approval of a wetlands permit from the DES wetlands Bureau for any proposed impacts to jurisdictional wetlands.
7. This permit is contingent on approval by the DES Subsurface Systems Bureau.
8. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
9. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
10. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
11. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
12. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02489                      PHILLIPS, RICHARD**  
**NEW DURHAM   Merrymeeting Lake**

Requested Action:

Impact 240 sq ft for the purpose of constructing a porch on 6 sono tube footings.

\*\*\*\*\*

APPROVE PERMIT:

Impact 240 sq ft for the purpose of constructing a porch on 6 sono tube footings.

With Conditions:

1. All work shall be in accordance with plans by Paul Myers dated January 6, 2009 and received by the Department of Environmental Services ("DES") on January 8, 2009.
2. No more than 9.4% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
3. The project as proposed will leave approximately 3,120 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 3,120 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
4. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
8. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02519                      MILLER, JOSEPH & ARLETTE**  
**SPRINGFIELD   Lake Kolelemook**

Requested Action:

Impact 3764 sq ft for the purpose of constructing a single family dwelling.

\*\*\*\*\*

**APPROVE PERMIT:**

Impact 3764 sq ft for the purpose of constructing a single family dwelling.

**With Conditions:**

1. All work shall be in accordance with plans by Lloyd Vose dated January 30, 2008 and received by the Department of Environmental Services ("DES") on January 5, 2009.
2. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain unaltered.
3. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
4. No more than 11.69% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
5. The project as proposed will leave approximately 8015.0 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 2661.5 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
6. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
7. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
8. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
9. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
- 10 Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02533                      EWING, MARC  
KINGSTON   Country Pond**

**Requested Action:**

Impact 1,694 sq ft for the purpose of adding a second story to an existing ground floor; building an elevated deck on 3 new concrete piers; and installing a new septic system on adjoining land across Concannon Road.

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**APPROVE PERMIT:**

Impact 1,694 sq ft for the purpose of adding a second story to an existing ground floor; building an elevated deck on 3 new concrete piers; and installing a new septic system on adjoining land across Concannon Road.

**With Conditions:**

1. All work shall be in accordance with plans by Bergman and Associates Inc. dated December 31, 2008 and received by the Department of Environmental Services ("DES") on January 2, 2009.
2. All activities associated with the installation of the proposed septic system are contingent on approval by the DES Subsurface Systems Bureau.
3. Orange construction fencing shall be placed at the limits of construction.
4. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No more than 16.9% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.

8. The project as proposed will leave approximately 10,369 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 2,608 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
9. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02561                      MACNAMARA/ MAY, EILEEN/ PETER**  
**MOULTONBOROUGH   Lake Winnepesaukee**

Requested Action:

Impact 11,900 sq ft for the purpose of removing an existing single family dwelling and constructing a larger single family dwelling, larger driveway, retaining wall, and new septic system.

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APPROVE PERMIT:

Impact 11,900 sq ft for the purpose of removing an existing single family dwelling and constructing a larger single family dwelling, larger driveway, retaining wall, and new septic system.

With Conditions:

1. All work shall be in accordance with plans by Bollinger Associates dated November 22, 2008, revised January 5, 2009 and received by the Department of Environmental Services ("DES") on January 5, 2009.
2. No more than 18.4% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
3. Orange construction fencing shall be placed at the limits of construction to prevent the accidental encroachment on areas to remain in an unaltered state.
4. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. The project as proposed will leave approximately 14,350 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 14,350 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
8. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
9. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
10. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02566                      WARREN, TOWN OF**  
**WARREN   Baker River**

Requested Action:

Impact 1000 sq ft for the purpose of regrading, installing a drainage pipe, and constructing a drainage outfall adjacent to the Baker River.

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**APPROVE PERMIT:**

Impact 1000 sq ft for the purpose of regrading, installing a drainage pipe, and constructing a drainage outfall adjacent to the Baker River.

**With Conditions:**

1. All work shall be in accordance with plans by Jones and Beach Engineers Inc. dated November 20, 2008 and received by the Department of Environmental Services ("DES") on December 1, 2008.
2. This permit is contingent upon the receipt of any NPDES permit and associated conditions that may be required under the Federal Stormwater Regulations (Phase II) National Pollutant Discharge Elimination System.
3. Impacts within the limits of the banks of the Baker River shall be conducted only as permitted under RSA 482-A.
4. No additional impervious area shall be added to the lot within the protected shoreland unless additional approval is obtained from DES.
5. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
6. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
7. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
8. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
9. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. Silt fencing must be removed once the area is stabilized.
12. An initial vegetation monitoring report shall be submitted to DES by July 30, 2010 to review the success of the plantings and schedule remedial actions if necessary. This report shall be submitted to DES with photographs demonstrating the condition of the plantings, include any necessary remedial actions, and contain a schedule for completing the remedial actions. The report shall reference the Shoreland Permit number and be sent to the DES Wetlands Bureau, 29 Hazen Drive, Concord, NH 03302.
13. Proposed plantings shall have a 100% survival success rate upon post construction inspection from DES or the areas shall be replanted until the 100% success rate is achieved.

**2008-02611                      BARDEN, MICHAEL**  
**GRAFTON   Kilton Pond**

**Requested Action:**

Impact 4,700 sq ft for the purpose of removing existing non-conforming single family dwelling and shed and constructing a new conforming single family dwelling.

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**APPROVE PERMIT:**

Impact 4,700 sq ft for the purpose of removing an existing non-conforming single family dwelling, a shed and constructing a new conforming single family dwelling.

**With Conditions:**

1. All work shall be in accordance with plans by Michael Barden dated January 2, 2009 and received by the Department of Environmental Services ("DES") on January 2, 2009.
2. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain unaltered and wetlands.
3. The Department of Environmental Services strongly encourages the area within the water front buffer where the non-conforming structure is to be removed to be re-vegetated with native vegetation.

4. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No more than 9.43% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
8. The project as proposed will leave approximately 8,000 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 7,500 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
9. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02616                      WASON, SUZANNE**  
**WEARE   Mount William Pond**

**Requested Action:**

Impact 2,500 sq ft for the purpose of constructing an addition onto an existing single family dwelling and installing a new septic system.

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**APPROVE PERMIT:**

Impact 2,500 sq ft for the purpose of constructing an addition onto an existing single family dwelling and installing a new septic system.

**With Conditions:**

1. All work shall be in accordance with plans by Todd Land Use Consultants dated November 21, 2008 and received by the Department of Environmental Services ("DES") on December 4, 2008.
2. All activities associated with the installation of the proposed septic system are contingent on approval by the DES Subsurface Systems Bureau.
3. Orange construction fencing shall be placed at the limits of construction.
4. No more than 6.46% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
5. The project as proposed will leave approximately 5207.0 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 3250.0 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
6. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
7. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
8. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.1.
9. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02655                      SDK LANDHOLDINGS LLC**  
**PELHAM   Beaver Brook**

Requested Action:

Impact 19,330 sq ft for the purpose of constructing a single family dwelling with deck, swimming pool, driveway and well.

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APPROVE PERMIT:

Impact 19,330 sq ft for the purpose of constructing a single family dwelling with deck, swimming pool, driveway and well.

With Conditions:

1. All work shall be in accordance with plans by Edward N. Herbert Assoc. Inc. dated November 2008, and received by the Department of Environmental Services ("DES") on January 2, 2009.
2. All actions associated with the proposed septic system are contingent on approval by the DES Subsurface Systems Bureau.
3. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain in an unaltered state.
4. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No more than 11.3% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
8. The project as proposed will leave approximately 39,261.0 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 23,779.0 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
9. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02691                      HENNIG, DAVID & ALISON**  
**NEW LONDON   Messer Pond**

Requested Action:

Impact 1,465 for the purpose of constructing an addition and a deck onto an existing single family dwelling.

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APPROVE PERMIT:

Impact 1,465 for the purpose of constructing an addition and a deck onto an existing single family dwelling.

With Conditions:

1. All work shall be in accordance with plans by Rick Flint dated December 5, 2008 and received by the Department of Environmental Services ("DES") on December 10, 2008.
2. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment areas to remain unaltered and wetlands.
3. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.



4. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
5. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
6. No more than 10.0% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
7. The project as proposed will leave approximately 14,263 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 12,935 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
8. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
9. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
10. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**2008-02754                      BARBA, NANCY**  
**MEREDITH   Lake Winnepesaukee**

Requested Action:

Impact 4,751 sq ft to construct a new 4 bedroom dwelling and shed.

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APPROVE PERMIT:

Impact 4,751 sq ft to construct a new 4 bedroom dwelling and shed.

With Conditions:

1. All work shall be in accordance with plans by New Hampshire Environmental Consultants dated December 18, 2008 and received by the Department of Environmental Services ("DES") on December 18, 2008.
2. This permit shall not be effective until it has been recorded with the Belknap County Registry of Deeds office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.
3. All kitchen and cooking facilities shall be removed from the pre-existing 1 bedroom dwelling on the property prior to the occupancy of the new 4 bedroom residence.
4. In accordance with RSA 483-B:9 V(e)(2), there shall be no more than 1 residential unit, as described in RSA 483-B:4 XIX, on the property.
5. No more than 13.1% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
6. The project as proposed will leave approximately 10,677 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 6,003 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
7. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
8. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
9. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.
12. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

13. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
14. Silt fencing must be removed once the area is stabilized.
15. This permit is contingent on approval by the DES Subsurface Systems Bureau.
16. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain in an unaltered state.

**2008-02755                      NH FISH & GAME DEPARTMENT**  
**NEWBURY   Sunapee Lake**

Requested Action:

Impact 80,500 sq ft for the purpose of constructing a 2-ramp public boat launch with parking facilities for approximately 31 car/trailers and 12 car top spaces on shore of Lake Sunapee in Newbury.

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APPROVE PERMIT:

Impact 80,500 sq ft for the purpose of constructing a 2-ramp public boat launch with parking facilities for approximately 31 car/trailers and 12 car top spaces on shore of Lake Sunapee in Newbury.

With Conditions:

1. All work shall be in accordance with plans by Fay, Spofford, and Thorndike, LLC. dated December 15, 2008 and received by the Department of Environmental Services ("DES") on December 18, 2008.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. All actions below the top of the banks of Lake Sunapee associated with the construction of the proposed boat ramp are contingent on obtaining a Wetland Impact Permit in accordance with RSA 482-A.
4. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau, Shoreland Program will require a new application and further permitting by the Bureau.
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain unaltered.
6. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
7. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
8. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
9. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
10. No more than 18.4% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
11. The project as proposed will leave approximately 14,865 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state.
12. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
13. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
14. Any fill used shall be clean sand, gravel, rock, or other suitable material.

With Findings:

1. The New Hampshire Office of State Planning (OSP) Public Access Plan for New Hampshire's Lakes, Ponds, and Rivers mandated in 1991 that the state of New Hampshire was to provide the public with unlimited powerboat access to Lake Sunapee.
2. RSA 255-A designates New Hampshire Fish and Game as the lead agency for boating access within the state and created the

Statewide Public Boat Access Program to provide adequate, safe, and environmentally sound public boat access to waters of the state.

3. New Hampshire Fish and Game conducted a 30 parameter analysis comparing 13 prospecting sites. Alternatives to the current site were not selected because they would not provide adequate, safe access to Lake Sunapee and, therefore, would not meet the aforementioned mandates.

4. The purpose and intent of RSA 483-B is to fulfill the state's roll as trustee of its waters and to promote public health, safety, and the general welfare by providing for economic development in proximity to the water, conserving shoreline cover and points of access to inland and coastal waters, and protecting public use of waters and recreation.

5. The Department of Environmental Services ("DES") finds that plans by Fay, Spofford and Thorndike, LLC. dated December 15, 2008 and received by the DES on December 18, 2008 provide sufficient evidence to meet the aforementioned purpose and intent of RSA 483-B.

**2008-02757                      ROSENBAUM, CAROL**  
**MOULTONBOROUGH   Lake Winnepesaukee**

**Requested Action:**

Impact 15,280 sq ft for the purpose of removing a non-conforming single family dwelling, two sheds, converting 2,155 sq ft of existing driveway to permeable technologies, and constructing new conforming single family dwelling with patio.

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**APPROVE PERMIT:**

Impact 15,280 sq ft for the purpose of removing a non-conforming single family dwelling, two sheds, converting 2,155 sq ft of existing driveway to permeable technologies, and constructing new conforming single family dwelling with patio.

**With Conditions:**

1. All work shall be in accordance with plans by Ames Associates date December 16, 2008 and received by the Department of Environmental Services ("DES") on December 19, 2008.
2. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on areas to remain in unaltered and wetlands.
3. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
4. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
5. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
6. No more than 20% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
7. The project as proposed will leave approximately 7,075 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 6,090 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
8. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
9. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
10. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**With Findings:**

1. The New Hampshire Department of Fish and Game Nongame and Endangered Wildlife Program reviewed the Natural Heritage Bureau for the propose project site. The NHB DataCheck search indicated that Emydoidea blandingii (Blanding's Turtle) and Progne subis (Purple Martin) have been sighted in the vicinity of the project area.
2. The New Hampshire Department of Fish and Game Nongame and Endangered Wildlife Program does not expect the project as proposed in accordance with plans by Ames Associates dated December 16, 2008 and received by the Department of Environmental

Services ("DES") on December 19, 2008 to impact either the Blanding Turtle or the Purple Martin.

3. The New Hampshire Department of Fish and Game Nongame and Endangered Wildlife Program has identified the proposed project site as habitat that supports recovering populations of *Haliaeetus leucocephalus* (Bald Eagle).
4. The NH Wildlife Action Plans cites that one of the greatest ongoing habitat quality concerns is additional shoreline development on rivers and large lakes in the Merrimack River and Lakes Region areas.
5. The preferred nesting sites of the bald eagle are large trees, especially *Pinus strobus* (Eastern White Pine).
6. The project as proposed removes trees from the waterfront buffer however, none of the species removed are Eastern White Pines and the total tree and sapling score in each 50 foot by 50 foot segment of the waterfront buffer exceeds the 50 points as required by RSA 483-B:9, V(D).

**2008-02791                      HOWARD, DONNELL**  
**FARMINGTON   Baxter Lake**

**Requested Action:**

Impact 5,939 sq ft for the purpose of constructing a single family dwelling with deck, installing a new septic system, replacing a gravel driveway with a larger paved driveway, and installing a 5 foot wide walkway to the waterfront.

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**APPROVE PERMIT:**

Impact 5,939 sq ft for the purpose of constructing a single family dwelling with deck, installing a new septic system, replacing a gravel driveway with a larger paved driveway, and installing a 5 foot wide walkway to the waterfront.

**With Conditions:**

1. All work shall be in accordance with plans by Norway Plains Associates, Inc. dated December 2008 and received by the Department of Environmental Services ("DES") on December 23, 2008.
2. All actions associated with the installation of the proposed septic system are contingent on approval by the DES Subsurface Systems Bureau.
3. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment areas to remain unaltered and wetlands.
4. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
5. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
6. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
7. No more than 19.8% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
8. The project as proposed will leave approximately 1,416 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 1,416 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
9. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
10. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
11. Any fill used shall be clean sand, gravel, rock, or other suitable material.

**CSPA PERMIT W/WAIVER**

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**2008-02135                      DIONISIO, THOMAS**  
**MEREDITH   Lake Winnepesaukee**

**Requested Action:**

Impact 5,700 sq ft for the purpose of demolishing an existing primary structure and reconstructing a new, more nearly conforming primary structure.

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**APPROVE PERMIT:**

Impact 5,700 sq ft for the purpose of demolishing an existing primary structure and reconstructing a new, more nearly conforming primary structure.

**WAIVER APPROVED:** RSA 483-B:9, II(b) is waived to allow the replacement of a primary structure that encroaches upon the primary building setback.

**With Conditions:**

1. All work shall be in accordance with plans by Ames Associates dated December 29, 2008 and received by the Department of Environmental Services ("DES") on December 31, 2008.
2. This approval includes a waiver of RSA 483-B:9, II (b) and, therefore, shall not be effective until it has been recorded at the Belknap County Registry of Deeds and a copy of the recorded waiver is sent to the department by certified mail, return receipt requested.
3. No more than 24.7% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
4. The project as proposed will leave approximately 5,400 sq ft of the Natural Woodland Buffer beyond the primary building setback in an unaltered state. At least 3,033 sq ft of the Natural Woodland Buffer beyond the primary building setback must remain in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
5. All activities conducted in association with the completion of this project shall be conducted in a manner that complies with applicable criteria of Administrative Rules Chapter Env-Wq 1400 and RSA 483-B during and after construction.
6. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
7. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
8. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
9. Any fill used shall be clean sand, gravel, rock, or other suitable material.
10. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. Silt fencing must be removed once the area is stabilized.

**With Findings:**

1. The existing non-conforming structure is located within the 50 ft primary building setback to Lake Winnepesaukee and, therefore, fails to conform to the setback restriction set forth in RSA 483-B:9, II (b), of the CSP.A.
2. In accordance with RSA 483-B:11, II, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters and the proposal is "more nearly conforming."
3. The applicant has proposed to remove approximately 845 sq ft of impervious surface within the waterfront buffer of the protected shoreland.
4. The applicant has proposed to install stormwater controls consisting of 1 foot deep x 1 foot infiltration trenches below the drip lines of the proposed dwelling to help intercept stormwater runoff.
5. The applicant has proposed to regrade areas to redirect stormwater away from areas currently prone to erosion.

6. The applicant has proposed to reduce the total area of impervious surface coverage within the protected shoreland from 26.7 % to 24.7%
7. The applicant has proposed to relocate new septic tanks at a greater distance from the reference line and beyond the limits of the waterfront buffer.
8. The applicant has proposed to install stormwater controls, install a new septic tank, reduce the total amount of impervious surface coverage within the waterfront buffer by approximately 845 sq ft, and decrease the overall sq ft of impervious surface coverage within the protected shoreland by 2%, and therefore, meets the requirements for a waiver to RSA 483-B:9 as described in RSA 483-B: 11, I.